



1301 E. Jefferson  
Detroit, Michigan 48207  
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March 8, 2019

Sarah Alvarez  
MuckRock News  
Dept. MR 68854  
411A Highland Ave  
Somerville, Massachusetts 02144-2516

**TRANSMITTED VIA EMAIL TO:**  
**68854-20637030@requests.muckrock.com**

**Re: FOIA Request Dated February 14, 2019 for Records Related to  
Rent Reasonableness Surveys**

Dear Ms. Alvarez:

Your request for "rent reasonable surveys" for zip code 48223 for the years 2017 and 2018 is granted in part and denied in part. The request is granted to the extent that the Detroit Housing Commission ("DHC") will provide the requested documents. The estimated cost to comply with your request is \$806.76. Since the estimated cost to comply is more than \$50, the Detroit Housing Commission ("DHC") requires a deposit of 50% of the estimated cost to comply, i.e., \$403.38. See the attached FOIA Detailed Cost Estimates regarding how the estimated costs were calculated. There are three documents, A, B and C, attached regarding the estimate because of the number of persons who will be involved in certain aspects of complying with the request.

Please send your check or money order, payable to the Detroit Housing Commission, to:

Detroit Housing Commission  
C/o Tangela Mitchell  
1301 E. Jefferson  
Detroit, Michigan 48207

Once the deposit is received, DHC will begin to comply with your request.

If you believe that the fee charged by DHC to process this request exceeds the amount permitted by FOIA, you must first appeal to DHC's Executive Director by

filing a written appeal for a fee reduction with the FOIA Coordinator within 45 days of issuance of this cost notice.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may, but are not required to, use DHC's Appeal of Excess FOIA Fee Form which is available on DHC's website: [www.dhcmi.org](http://www.dhcmi.org).

The request is denied to the extent that DHC will be redacting the following information from the documents:

1. The address of the unit;
2. The name and address of the unit owner;
3. The name and address of the program participant.

This information will be redacted from the documents for several reasons.

Your request is denied for several reasons.

First, the address of the unit will be redacted pursuant to the exemption from disclosure in MCL 15.243(1), since the information requested is of a personal nature and its disclosure would constitute a clearly unwarranted invasion of an individual's privacy. Information is "of a personal nature" if it is embarrassing, intimate, private or confidential. Whether a particular address is the residence of someone receiving public housing assistance satisfies the definition "of a personal nature". This information is clearly intimate, private and confidential and its disclosure could be potentially embarrassing. Disclosure of the addresses of the Housing Choice Voucher Program ("HCVP") voucher holders, that is those persons who receive public housing assistance, does not serve the core purpose of the Freedom of Information Act ("FOIA"), i.e., to shed light on DHC's performance of its statutory duties.

Also, in light of today's technology, the identity of a person can be easily determined if the address is known. Consequently, disclosing the address is tantamount to disclosing the identity of the person living at the address. Disclosure of the addresses and identity of persons who receive government housing assistance falls squarely within this FOIA exemption.

The names and addresses of the owner of the unit will be redacted pursuant to the exemption from disclosure in MCL 15.243(1) since the information requested is of a personal nature and its disclosure would constitute a clearly unwarranted invasion of an individual's privacy. Many of the landlords who participate in DHC's HCVP only own one or two properties. In light of today's technology and the information otherwise available from public land records, if the landlord's

name is provided the address of the property can be identified. The reasons stated above in response to your request for the address of the properties in DHC's HCVP provide the rationale regarding why the identity of the individual residing in the property is exempt from disclosure.

This request is also denied pursuant to the exemption from disclosure in MCL 15.243(1) since the information requested is of a personal nature and its disclosure would constitute a clearly unwarranted invasion of an individual's privacy. Information is "of a personal nature" if it is embarrassing, intimate, private or confidential. Whether a particular person participates as a landlord in DHC's HCVP satisfies the definition "of a personal nature". This information is clearly intimate, private and confidential and its disclosure could be potentially embarrassing. Disclosure of the landlord's identity could place a chilling effect on the willingness of landlords to participate in the HCVP to the detriment of the availability of affordable housing for those who need it. Disclosing the identity of HCVP participating landlords does not serve the core purpose of FOIA, i.e., to shed light on DHC's performance of its statutory duties.

The names and addresses of the HCVP participant will be redacted pursuant to the exemption from disclosure in MCL 15.243(1) since the information requested is of a personal nature and its disclosure would constitute a clearly unwarranted invasion of an individual's privacy. Information is "of a personal nature" if it is embarrassing, intimate, private or confidential. Whether a particular person receives public housing assistance satisfies the definition of information "of a personal nature". This information is clearly intimate, private and confidential and its disclosure could be potentially embarrassing. Disclosure of the names and addresses of HCVP participants, that is those persons who receive public housing assistance, does not serve the core purpose of FOIA, i.e., to shed light on DHC's performance of its statutory duties.

There are also several federal statutes and regulations that prohibit disclosure of the requested information. First, 5 U.S.C. §552a, the Privacy Act of 1974 and its accompanying regulations, prohibit the disclosure of a record about an individual from a system of records absent the written consent of the individual. The Privacy Act defines a system of records as a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The HCVP records DHC maintains are in a system of records it maintains to operate the HCVP on behalf of the United States Department of Housing and Urban Development ("HUD").

DHC contracts with HUD via the Annual Contributions Contract ("ACC") to accomplish the HUD function of providing affordable housing. HUD imposes the

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requirement of §552a(m)(1) on DHC via the ACC which requires DHC to comply with all applicable statutes, executive orders and regulations issued by HUD and

to ensure compliance with such requirements by any contractor or subcontractor engaged for the purposes of performing under the ACC. As a result of the ACC language, applicable federal regulations, OMB Circulars, Public and Indian Housing Notices, other guidance issued by HUD, and the Privacy Act requirements, DHC is prohibited from disclosing information from the HCVF system of record. In fact, disclosure would subject DHC staff to the criminal penalties in §552a(m)(1).

§552a(m)(1) provides:

" GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

§552a(i)(1) provides:

CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

Also, your request is denied pursuant to the exemption from disclosure in MCL 15.243(1)(d) which exempts from disclosure "Records or information specifically described and exempted from disclosure by statute". HUD is required by the Federal Information Security Management Act of 2002, 44 U.S.C. §3541, et seq, ("FISMA"), to protect, regulate and control personally identifiable information that is maintained by DHC as a consequence of DHC's role in performing a HUD function. Consequently all records in DHC's custody which are collected and maintained by DHC on behalf of HUD are subject to security protections and

security controls developed and/or adopted by HUD pursuant to the authority of FISMA.

Based upon the Supremacy Clause of the United States Constitution, Art. VI, U.S. Const., the federal statutes, regulations and requirements preempt the Michigan FOIA with respect to the disclosure of the requested records. As such, DHC must collect, use, maintain and disseminate the HCVP system of records in accordance with the provisions of the Privacy Act, FISMA and other applicable federal laws and regulations.

In summary, DHC's position is that the provision of the information proposed for redaction would violate the privacy of the participants and landlords in the HCVP. Under FOIA, the benefit of public disclosure of the denied information does not outweigh the privacy of these individuals and the chilling effect disclosure would have on the willingness of landlords to participate in the HCVP. Providing the denied information does not provide insight into how DHC is managing the HCVP.

Disclosure of the denied information would also violate several federal statutes and regulations. DHC believes HUD intends that this information remain confidential and DHC is complying with the letter and the spirit of federal requirements.

You have the right to appeal this partial denial by doing the following:

- 1) Within ten (10) days of receipt of this denial, you may submit a written appeal to DHC's Executive Director, which specifically states the word "appeal" and states the reason or reasons the denial should be reversed.

OR

- 2) Within one hundred eighty (180) days of receipt of this denial, you may commence an action in the Circuit Court to compel disclosure. Should you prevail, you will be entitled to have reasonable attorneys' fees, costs and disbursements assessed against DHC by the court. If you or DHC prevails in part, the court may, in its discretion, award you all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. If the Court determines that DHC has been arbitrary and capricious in its denial, you will be entitled to, in addition to actual damages, punitive damages in the amount of \$1,000.00.

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Sarah Alvarez FOIA Response

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The Public Written Summary of DHC's FOIA Procedures and Guidelines is available free of charge from:


**Website:** dhcmi.org

**Email:** FOIACoordinator@dhcmi.org

**Address:** 1301 E. Jefferson, Detroit Michigan 48207

**FAX:** 313-877-8764

Sincerely,



Horticene Hardaway  
General Counsel/FOIA Coordinator  
(313) 877-8810

HH:tm

cc: Joy Flood, Director of Assisted Housing/FOIA Officer